

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

T S & C INVESTMENTS, L.L.C.

***CIVIL ACTION NO. 07-2103**

VS.

***JUDGE DOHERTY**

BEUSA ENERGY, INC., ET AL

***MAGISTRATE JUDGE HILL**

REPORT AND RECOMMENDATION ON MOTION TO DISMISS

Pending before the undersigned for report and recommendation is Defendant, Justiss Oil Company, Inc.'s ("Justiss") Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim on Which Relief can be Granted filed on August 1, 2008 [rec. doc. 59]. Plaintiffs filed an opposition on August 21, 2008. [rec. doc. 68]. Justiss filed a reply on August 29, 2008. [rec. doc. 73]. Oral argument was held on October 15, 2008, after which the undersigned took the motion under advisement. [rec. doc. 87].

For the reasons set forth in the Report and Recommendation on the Motion to Dismiss with Prejudice for Failure to State a Claim on Behalf of Beusa Energy, Inc. [rec. doc. 89], I recommend that the motion to dismiss [rec. doc. 59] be **GRANTED**, and that all claims against Justiss be **DISMISSED WITH PREJUDICE**.

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and F.R.Civ.Proc. 72(b), parties aggrieved by this recommendation have ten (10) business days from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within ten (10) days after being served with a

copy thereof. Counsel are directed to furnish a courtesy copy of any objections or responses to the District Judge at the time of filing.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FACTUAL FINDINGS AND/OR THE PROPOSED LEGAL CONCLUSIONS REFLECTED IN THIS REPORT AND RECOMMENDATION WITHIN TEN (10) DAYS FOLLOWING THE DATE OF ITS SERVICE, OR WITHIN THE TIME FRAME AUTHORIZED BY FED.R.CIV.P. 6(b), SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING THE FACTUAL FINDINGS OR THE LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT, EXCEPT UPON GROUNDS OF PLAIN ERROR. *DOUGLASS V. UNITED SERVICES AUTOMOBILE ASSOCIATION*, 79 F.3D 1415 (5TH CIR. 1996).

Signed this 29th day of October, 2008, at Lafayette, Louisiana


C. MICHAEL HILL
UNITED STATES MAGISTRATE JUDGE